

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION OF
SUSTAINABLE CONSERVATION**

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FOR Sustainable Conservation

October 31, 2007

I. INTRODUCTION

In accordance with Section 1804(a)(1) of the Public Utilities Code, Sustainable Conservation hereby files its notice of its intent to claim compensation in this proceeding. Section 1802(b) describes customers eligible to claim compensation for participation in California Public Utilities Commission (“CPUC”) proceedings.

Section 1804(a) lists the items that should be addressed in such a notice including:

- A statement of the nature and extent of the customer’s planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed (Section 1804(a)(2)(A)(i));
- An itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time (Section 1804 (a)(2)(A)(ii)); and
- The notice of intent may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, such a showing shall be included in the request submitted pursuant to subdivision (c) (Section 1804(a)(2)(B)).

In this notice, Sustainable Conservation (1) demonstrates that it is a 501(c)(3) non-profit public benefit corporation supported in part through individual contributions, which qualifies it to claim compensation pursuant to Public Utilities Code Section 1802(b); (2) sets forth the nature and extent of its planned participation in the proceeding in accordance with Public Utilities Code Section 1804(a)(2)(A)(i); (3) sets forth an itemized estimate of the compensation it expects to request in accordance with Public Utilities Code Section 1804(a)(2)(A)(ii); and (4) provides its showing of financial hardship in accordance with Public Utilities Code Section 1804(a)(2)(B).

II. SUSTAINABLE CONSERVATION IS A CUSTOMER ELIGIBLE TO CLAIM COMPENSATION PURSUANT TO PUBLIC UTILITIES CODE SECTION 1802(b)

Public Utilities Code Section 1802(b) defines a customer eligible to claim compensation as:

[A]ny participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission; any representative who has been authorized by a customer; or any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.

Sustainable Conservation, at a minimum, falls within the third category listed in Section 1802(b) because it is a “representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.”

The interests represented by Sustainable Conservation are unique and are not adequately represented by other parties that have intervened in this proceeding. Sustainable Conservation partners with agriculture, business, and government leaders to find practical ways that the private sector can protect clean air, clean water, and healthy ecosystems. Sustainable Conservation’s mission includes the adoption of innovative farming practices so that farmers and other processors of agricultural waste can protect the environment while providing crucial products and services. This includes harnessing methane gas to power electric generation facilities (“biogas digesters”), a renewable generation technology that holds great promise and that can make a significant contribution to reducing emissions of both carbon and methane.

Sustainable Conservation is a non-profit public benefit corporation with a long-standing interest in advancing the stewardship of natural resources using innovative, pragmatic strategies that actively engage businesses and private landowners in conservation. This includes participation and advocacy before regulatory entities including the California Air Resources Board, the California Energy Commission, and the California Public Utilities Commission, as well as other State agencies, boards, and the Legislature. While Sustainable Conservation partners with businesses and private landowners, these entities do not provide funding. One-quarter of Sustainable Conservation's operating budget comes from individual donations; the remainder comes from grants and fee-for-service programs.

Sustainable Conservation is a formally organized group authorized pursuant to its bylaws to, among other things, "develop, support, and demonstrate ecologically and environmentally sensitive business strategies and land use" and "represent interests related to the Corporation's conservation activities in regulatory, judicial and legislative proceedings."¹

Sustainable Conservation's Bylaws are explicit that the organization represents individuals, as well as the public, and that our focus is on environmental benefit. In Article 13, the Bylaws state: "The Corporation represents its donors and the public at large as it seeks to fulfill its mission as stated in Article 3." Sustainable Conservation's nearly 400 individual donors reside in California; the vast majority of donors are customers of the investor-owned utilities. Sustainable Conservation communicates regularly with its donors about its work with regulatory agencies, including the advocacy work in which it is engaged at the Commission.

In D. 98-04-059, page 29, footnote 14, the Commission reaffirmed its "previously articulated interpretation that compensation be proffered only to customers whose participation

¹ "Bylaws of Sustainable Conservation, a California Public Benefit Corporation," Article 3. The Bylaws are attached in Appendix A.

arises directly from their interests as customers.” The Commission explained that “With respect to environmental groups, we have concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. (D.88-04-066, mimeo, at 3.) They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example.” Consistent with this articulation, Sustainable Conservation represents customers with a concern for the environment and sustainable agricultural practices, particularly renewable energy, which distinguishes their interests from the interests represented by other consumer and environmental advocates who have intervened in this case.

The issues on which Sustainable Conservation will focus in this proceeding provide both tangible and intangible environmental benefits, primarily through improved air quality and reduced greenhouse gas emissions. The Commission has previously decided that there are benefits from this type of intervention. In D.06-04-065 the Commission said “...we agree with AECA that the monetary benefits resulting from the engine conversion program are both difficult to quantify and probably quite modest.”²

III. PARTICIPATION IN THE PROCEEDING WOULD POSE A SIGNIFICANT FINANCIAL HARDSHIP TO SUSTAINABLE CONSERVATION

Section 1804(a)(2)(B) provides that “[t]he notice of intent may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, such a showing shall be included in the request submitted pursuant to

² See, D.06-04-065, “Opinion Granting Intervenor Compensation to the Utility Reform Network and the Agricultural Energy Consumers Association for Substantial Contributions to Decision 05-06-016,”p. 10.

subdivision (c).” Sustainable Conservation proffers its showing of significant financial hardship at this time.

For Sustainable Conservation, the cost of the organization’s participation in Commission proceedings substantially outweighs the benefit to the individual donors it represents. Sustainable Conservation is supported in part by individual donors who are residential customers of California’s investor-owned utilities and whose individual interests in this proceeding are small relative to the costs of participation. It is unlikely that the donors to Sustainable Conservation will see financial benefits that exceed the costs of intervention.

IV. STATEMENT OF THE NATURE AND EXTENT OF SUSTAINABLE CONSERVATION’S PLANNED PARTICIPATION IN THE PROCEEDING

Section 1802(a)(2)(A)(i) provides that a notice of intent to claim compensation must include: “[a] statement of the nature and extent of the customer’s planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed.” Sustainable Conservation will be an active participant in this phase of the proceeding.

Sustainable Conservation intends to participate fully in this phase of the proceeding as it is outlined in the “Administrative Law Judge’s Ruling Requesting Comments and Noticing Workshop on Allowance Allocation Issues,” (October 15, 2007). Specifically, Sustainable Conservation expects to file comments and briefs and reply comments and briefs on policy issues, participate in workshops, and comment on the proposed decision. To the extent possible, Sustainable Conservation will coordinate its participation with other parties to avoid duplication.

V. THIS NOTICE OF INTENT IS TIMELY FILED

Section 1804(a)(1) provides guidance on when a notice of intent to claim intervenor compensation should be filed. Normally, the notice of intent is filed within 30 days of the first prehearing conference. However, “In cases where the schedule would not reasonably allow

parties to identify issues within the timeframe set forth above, or where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new or revised notice of intent.”

Until earlier this year, this proceeding was looking at a regulatory system for the electricity sector that employed a load-based cap. The October 15, 2007 ruling invites parties to comment on issues related to allowance allocation for a first-seller approach, as well as a load-based approach. Therefore, ALJ Ruling can be viewed as initiation of a new phase in this proceeding. Sustainable Conservation is filing this notice of intent within 30 days of the ALJ’s ruling on this topic and concurrent with the filing of initial comments in this track of the proceeding; there is no prehearing conference scheduled. The Commission should find that this Notice of Intent is timely filed.

VI. ITEMIZED ESTIMATE OF THE COMPENSATION THAT SUSTAINABLE CONSERVATION EXPECTS TO REQUEST

Section 1804(a)(2)(A)(ii) provides that a notice of intent to claim compensation must include: “[a]n itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time.” Sustainable Conservation expects to be an active participant and is receiving assistance from outside experts in this matter. The budget estimate provided below assumes comments and reply comments on policy issues, participation in the workshops, and comments and reply comments on any proposed decision that might be issued. Sustainable Conservation currently estimates a total budget of \$25,075 comprised of the following components:

Sustainable Conservation staff, hours, and billing rates: 40 hours of Allen Dusault, Program Director, at an average hourly rate of \$220 (including time spent on intervenor compensation and travel, which is billed at half the hourly rate).

Sustainable Conservation has retained outside consulting staff for this purpose, whose costs are estimated at \$9,930. Specifically, Sustainable Conservation has retained Jody London Consulting for assistance in this proceeding.³ Estimated labor and costs for Principal Jody London are \$9,930 (including time spent on intervenor compensation and travel, which is billed at half the hourly rate).

Sustainable Conservation estimates total expenses (postage, copies, travel, etc) at about \$30. Sustainable Conservation's total request is anticipated to be approximately \$18,510. The amount of any future claim to compensation is dependent upon the final decision or triggering event to file a compensation request in this proceeding. Sustainable Conservation will address the reasonableness of the hourly rates requested for its representatives in its request

VII. CONCLUSION

Sustainable Conservation respectfully requests that the assigned ALJ issue a determination of its eligibility for compensation in this proceeding within 30 days. Specifically, that Sustainable Conservation qualifies as a customer under Public Utilities Code § 1802(b); that Sustainable Conservation has made an adequate showing of significant financial hardship; that Sustainable Conservation meets the requirements of Public Utilities Code § 1804 for eligibility for compensation in this proceeding; and that Sustainable Conservation is eligible for compensation in this proceeding. We understand that a finding of eligibility in no way ensures compensation [§ 1804(b)(2)].

³ Jody London, Principal of Jody London Consulting, has previously been awarded intervenor compensation in D.06-11-038, D.05-06-024, D.04-01-050, D.03-12-062, D.03-06-071, D.03-06-067, and D.02-10-062

Dated: October 31, 2007

Respectfully submitted,

By: 

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For SUSTAINABLE CONSERVATION

ATTACHMENT A:

ADOPTED BYLAWS OF SUSTAINABLE CONSERVATION

**BYLAWS
OF
SUSTAINABLE CONSERVATION
A CALIFORNIA PUBLIC BENEFIT CORPORATION**

**ARTICLE 1
NAME OF CORPORATION**

The name of this Corporation is Sustainable Conservation.

**ARTICLE 2
OFFICES**

SECTION 2.1 PRINCIPAL OFFICE

The principal office for the transaction of the business of the Corporation shall be located in San Francisco, California. The Directors may change the principal office from one location to another, and this section shall be amended accordingly.

SECTION 2.2 OTHER OFFICES

The Corporation may also have offices at such other places, within or without the State of California, where it is qualified to do business, as its business may require and as the Board of Directors may, from time to time, designate.

**ARTICLE 3
PURPOSES**

SECTION 3.1 OBJECTIVES AND PURPOSES

This Corporation has been formed under the California Nonprofit Public Benefit Corporation Law for charitable, scientific, literary and educational purposes and it shall be nonprofit and nonpartisan. No substantial part of the activities of the corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in any political campaign on behalf of any candidate for public office. The Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the charitable and public purposes described in its Articles of Incorporation.

The primary objectives and purposes of the corporation shall include but are not limited to the following:

- (a) To develop, support and demonstrate ecologically and environmentally sensitive business strategies and land use;

- (b) To represent interests related to the Corporation's conservation activities in regulatory, judicial and legislative proceedings.
- (c) To receive and administer funds for charitable and educational purposes, including but not limited to the purposes described above, and to that end to take by bequest, devise, gift, grant, purchase, lease or otherwise, either absolutely or jointly with any other person or entity, any property, real, personal, tangible, or intangible, or any undivided interest therein, without limitation as to amount or value; to sell, convey, or otherwise dispose of any such property and to hold, invest, reinvest, or deal with the principal or income thereof in such a manner as, in the judgment of the Board of Directors, will best promote purposes enumerated in this Article 2;
- (d) To cooperate with, and provide financial support of, conservation activities engaged in by other organizations, agencies, and persons;
- (e) To disseminate information on new ideas and techniques applicable to the conservation field;
- (f) To further professional development in the field of conservation in both the public and private sectors;
- (g) To strengthen organizational management in the not for profit field.

ARTICLE 4 DEDICATION OF ASSETS

The properties and assets of this nonprofit Corporation are irrevocably dedicated to public benefits and/or charitable purposes. No part of the net earnings, properties, or assets of this Corporation, on dissolution or otherwise, shall inure to the benefit of any private person or individual, or any Director or Officer of this Corporation. On liquidation or dissolution, all properties and assets remaining after payment, or provision for payment, of all debts and liabilities of this Corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its exempt status under Section 510(c)(3) of the Internal Revenue Code.

ARTICLE 5 DIRECTORS

SECTION 5.1 NUMBER

The corporation shall have not less than three (3) nor more than fifteen (15) Directors, with the exact number to be fixed within these limits by approval of the Board of Directors.

SECTION 5.2 POWERS

Subject to the provisions of the California Nonprofit Public Benefit Corporation law and any limitations in the Articles of Incorporation and Bylaws, the activities and affairs of this corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board of Directors.

SECTION 5.3 DUTIES

It shall be the duty of the Directors to:

- (a) Perform any and all duties imposed on them collectively or individually by law, by the Articles of Incorporation of this corporation, or by these Bylaws;
- (b) Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, prescribe the duties and fix the compensation, if any, of all Officers, agents and employees of the corporation;
- (c) Supervise all Officers, agents and employees of the corporation to assure that their duties are performed properly;
- (d) Meet at such times and places as required by these Bylaws;
- (e) Register their addresses with the Secretary of the corporation and notices of meetings mailed or telegraphed to them at such addresses shall be valid notices thereof.

SECTION 5.4 APPOINTMENT AND TERM OF OFFICE OF DIRECTORS

- (a) Initial Board. The members of the Board of directors, as of the initial meeting of the Board, shall be those persons whose names and addresses are attached to these Bylaws as Exhibit A.
- (b) Subsequent Appointments. The terms of the initial members of the Board of Directors shall expire with the annual meeting of the Board in the year indicated in Exhibit A. Upon the expiration of the initial term of each initial member and the term of each successor member, his or her successor shall be elected by the majority vote of the remaining members of the Board of Directors whose terms have not expired.
- (c) Each Director other may serve for not more than five three year terms or fifteen (15) consecutive years. Any Director subject to a term limit who has served for fifteen consecutive years may again serve as Director only after an absence from the Board of at least one year.

SECTION 5.5 COMPENSATION

Directors shall serve without compensation except that they shall be allowed and paid their actual and necessary expenses incurred in attending Directors meetings. In addition, they shall be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Directors may not be compensated for rendering services to the corporation in any capacity other than Director unless such other compensation is reasonable and is allowable under the provisions of Section 6 of this Article.

SECTION 5.6 RESTRICTION REGARDING INTERESTED DIRECTORS

Notwithstanding any other provision of these Bylaws, not more than forty-nine percent (49%) of the persons serving on the Board may be interested persons. For purposes of this Section, "interested persons" means either:

- (a) Any person currently being compensated by the corporation for services rendered it within the previous twelve (12) months, whether as a full- or part-time Officer or other employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as Director; or
- (b) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

SECTION 5.7 PLACE OF MEETINGS

Meetings shall be held at the principal office of the corporation unless otherwise provided by the Board or at such place within or without the State of California which has been designated from time to time by resolution of the Board of Directors. In the absence of such designation, any meeting not held at the principal office of the corporation shall be valid only if held on the written consent of all Directors given either before or after the meeting and filed with the Secretary of the corporation or after all Board members have been given written notice of the meeting as hereinafter provided for special meetings of the Board. Any meeting, regular or special, may be held by conference telephone or similar communications equipment, so as long as all Directors participating in such meeting can hear one another.

SECTION 5.8 REGULAR AND ANNUAL MEETINGS

Regular meetings of Directors shall be held on the first Monday of October at 9:00 AM, unless such day falls on a legal holiday, in which event the regular meeting shall be held at the same hour and place on the next business day.

SECTION 5.9 SPECIAL MEETINGS

Special meetings of the Board of Directors may be called by the Chairperson of the Board, the President, the Vice President, the Secretary, or by any two Directors, and such meetings shall be held at the place, within or without the State of California, designated by the person or persons calling the meeting, and in the absence of such designation, at the principal office of the corporation.

SECTION 5.10 NOTICE OF MEETINGS

Regular meetings of the Board may be held without notice. Special meetings of the Board shall be held upon four (4) days' notice by first-class mail or forty-eight (48) hours; notice delivered personally or by telephone or telegraph. If sent by mail or telegraph, the notice shall be deemed to be delivered on its deposit in the mail or on its delivery to the telegraph company. Such notices shall be addressed to each Director at his or her address as shown on the books of the corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to Directors absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting.

SECTION 5.11 CONTENTS OF NOTICE

Notice of meetings not herein dispensed with shall specify the place, day and hour of the meeting. The purpose of any Board meeting need not be specified in the notice.

SECTION 5.12 WAIVER OF NOTICE AND CONSENT TO HOLDING MEETINGS

The transactions of any meeting of the Board, however called and noticed or wherever held, are as valid as though the meeting had been duly held after proper call and notice, provided a quorum, as hereinafter defined, is present and provided that either before or after the meeting each Director not present signs a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 5.13 QUORUM FOR MEETINGS

A quorum shall consist of a majority of the Board of Directors.

Except as otherwise provided in these Bylaws or in the Articles of Incorporation of this corporation, or by law, no business shall be considered by the Board at any meeting at which a quorum, as hereinafter defined, is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn. However, a majority of the Directors present at such meeting may adjourn from time to time until the time fixed for the next regular meeting of the Board.

When a meeting is adjourned for lack of a quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such meeting, other than by announcement at the meeting at which the adjournment is taken, except as provided in Section 10 of this Article.

The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Directors from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, or the Articles of Incorporation or bylaws of this corporation.

SECTION 5.14 MAJORITY ACTION AS BOARD ACTION

Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless the Articles of Incorporation or Bylaws of this corporation, or provisions of the California Nonprofit Public Benefit Corporation Law, particularly those provisions relating to appointment of committees (Section 5212), approval of contracts or transactions in which a Director has a material financial

interest (Section 5233) and indemnification of Directors (Section 5238), require a greater percentage or different voting rules for approval of a matter by the Board.

SECTION 5.15 CONDUCT OF MEETINGS

Meetings of the Board of Directors shall be presided over by the Chairperson of the Board, or, if no such person has been so designated or, in his or her absence, the President of the corporation or, in his or her absence, by the Vice President of the corporation or, in the absence of each of these persons, by a Chairperson chosen by a majority of the Directors present at the meeting. The Secretary of the corporation shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding Officer shall appoint another person to act as Secretary of the Meeting.

SECTION 5.16 ACTION BY UNANIMOUS WRITTEN CONSENT WITHOUT MEETING

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. For the purposes of this Section only, "all members of the Board" shall not include any "interested Director" as defined in Section 5233 of the California Nonprofit Public Benefit Corporation Law. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as the unanimous vote of the Directors. Any certificate or other document filed under any provision of law which relates to action so taken shall state that the action was taken by unanimous written consent of the Board of Directors without a meeting and that the Bylaws of this corporation authorize the Directors to so act, and such statement shall be prima facie evidence of such authority.

SECTION 5.17 VACANCIES

Vacancies on the Board of Directors shall exist (1) on the death, resignation or removal of any Director, and (2) whenever the number of authorized Directors is increased.

The Board of Directors may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 5230 and following of the California Nonprofit Public Benefit Corporation Law.

Directors may be removed without cause by a majority of the Directors then in office.

Any Director may resign effective upon giving written notice to the Chairperson of the Board, the President, the Secretary, or the Board of Directors, unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the Attorney General.

Vacancies on the Board may be filled by approval of the Board or, if the number of Directors then in office is less than a quorum, by (1) the unanimous written consent of the Directors then in office, (2) the affirmative vote of a majority of the Directors then in office at a meeting held pursuant to notice or waivers of notice complying with this Article of these Bylaws, or (3) a sole remaining Director.

A person elected to fill a vacancy as provided by this Section shall hold office until the next annual election of the Board of Directors or until his or her death, resignation or removal from office.

SECTION 5.18 INDEMNIFICATION BY CORPORATION OF DIRECTORS, OFFICERS, EMPLOYEES AND OTHER AGENTS

This may indemnify any person who was or is a party, or is threatened to be make a party, to any action or proceeding by reason of the fact that such person is or was an Officer, Director, or agent of this Corporation, or is or was serving at the request of this Corporation as a Director, Officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, or other enterprise, against expenses, judgment, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding, to the fullest extent permitted under the California Nonprofit Public Benefit Corporation Law.

In determining whether indemnification is available to the Director, Officer or agent of this Corporation under California law, the determination as to whether the applicable standard of conduct set forth in Section 5238 of the California Nonprofit Public Benefit Corporation Law has been met shall be made by a majority vote of a quorum of Directors who are not parties to the proceeding. If the number of Directors who are not parties to the proceeding is less than two-thirds of the total number of Directors seated at the time the determination is to be made, the determination as to whether the applicable standard of conduct has been met shall be made by the court in which the proceeding is or was pending.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled, and shall continue as to a person who has ceased to be an agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

SECTION 5.19 INSURANCE FOR CORPORATE AGENTS

The Board of Directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation (including as Director, Officer, employee or other agent of the corporation) against any liability other than for violating provisions of law relating to self-dealing (Section 5233 of the California Nonprofit Public Benefit Corporation Law) asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of Section 5238 of the California Nonprofit Public Benefit Corporation Law.

ARTICLE 6 OFFICERS

SECTION 6.1 NUMBER OF OFFICERS

The Officers of the corporation shall be a President, a Secretary, and a Chief Financial Officer who shall be designated the Treasurer. The corporation may also have, as determined by the Board of Directors, a Chairperson of the Board, one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers, or other Officers. Any number of offices may be held by the same person except that neither the Secretary nor the Treasurer may serve as the President or Chairperson of the Board.

SECTION 6.2 QUALIFICATION, ELECTION, AND TERM OF OFFICE

Any person may serve as Officer of this corporation. Officers shall be elected by the Board of Directors, at any time, and each Officer shall hold office until he or she resigns or is removed or is otherwise disqualified to serve, or until his or her successor shall be elected and qualified, whichever occurs first.

SECTION 6.3 SUBORDINATE OFFICERS

The Board of Directors may appoint such other Officers or agents as it may deem desirable, and such Officers shall serve such terms, have such authority, and perform such duties as may be prescribed from time to time by the Board of Directors.

SECTION 6.4 REMOVAL AND RESIGNATION

Any Officer may be removed, either with or without cause, by the Board of Directors, at any time. Any Officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the corporation. Any such resignation shall take effect at the date of receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The above provisions of this Section shall be superseded by any conflicting terms of a contract which has been approved or ratified by the Board of Directors relating to the employment of any Officer of the corporation.

SECTION 6.5 VACANCIES

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any Officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of President, such vacancy may be filled temporarily by appointment by the President until such time as the Board shall fill the vacancy. Vacancies occurring in offices of Officers appointed at the discretion of the Board may or may not be filled as the Board shall determine.

SECTION 6.6 DUTIES OF PRESIDENT

The President shall be the Chief Executive Officer of the corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the corporation and the activities of the Officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these Bylaws, or which may be prescribed from time to time by the Board of Directors. Unless another person is specifically appointed as Chairperson of the Board of Directors, he or she shall preside at all meetings of the Board of Directors. Except as otherwise expressly provided by law, by the Articles of Incorporation, or by these Bylaws, he or she shall, in the name of the corporation, execute such deeds, mortgages, bonds, contracts, checks, or other instruments which may from time to time be authorized by the Board of Directors.

SECTION 6.7 DUTIES OF VICE PRESIDENT

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have other powers and perform such other duties as may be prescribed by law, by the Articles of Incorporation, or by these Bylaws, or as may be prescribed by the Board of Directors.

SECTION 6.8 DUTIES OF SECRETARY

The Secretary shall:

Certify and keep at the principal office of the corporation the original, or a copy of these Bylaws as amended or otherwise altered to date.

Keep at the principal office of the corporation or at such other place as the Board may determine, a book of minutes of all meetings of the Directors, and, if applicable, meetings of committees of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present or represented at the meeting, and the proceedings thereof.

See that all notices are duly given in accordance with the provisions of these Bylaws or as required by law.

Be custodian of the records and of the seal of the corporation and see that the seal is affixed to all duly executed documents, the execution of which on behalf of the corporation under its seal is authorized by law or these Bylaws.

Exhibit at all reasonable times to any Director of the corporation, or to his or her agent or attorney, on request therefore, the Bylaws, and the minutes of the proceedings of the Directors of the corporation.

In general, perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Articles of Incorporation of this corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 6.9 DUTIES OF THE TREASURER

Subject to the provisions of these Bylaws relating to the “execution of Instruments, Deposits and funds,” the Treasurer shall:

Have charge and custody of, and be responsible for, all funds and securities of the corporation, and deposit all such funds in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors.

Receive, and give receipt for, monies due and payable to the corporation from any source whatsoever.

Disburse, or cause to be disbursed, the funds of the corporation as may be directed by the Board of Directors, taking proper vouchers for such disbursements.

Keep and maintain adequate and correct accounts of the corporation’s properties and business transactions, including accounts of its assets, liabilities, receipts, disbursements, gains and losses.

Exhibit at all reasonable times the books of account and financial records to any director of the corporation, or to his or her agent or attorney, on request therefore.

Render to the President and Directors, whenever requested, an account of any or all of his or her transactions as Treasurer and of the financial condition of the corporation.

Prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

In general, perform all duties incident to the office of Treasurer and such other duties as may be required by law, by the Articles of Incorporation of the corporation, or by these Bylaws, or which may be assigned to him or her from time to time by the Board of Directors.

SECTION 6.10 COMPENSATION

The salaries of the Officers, if any, shall be fixed from time to time by resolution of the Board of Directors, and no Officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the corporation, provided, however, that such compensation paid a Director for serving as an Officer of this corporation shall only be allowed if permitted under the provisions of Article 3, Section 6 of these Bylaws. In all cases, any salaries received by Officers of this corporation shall be reasonable and given in return for services actually rendered for the corporation which relate to the performance of the charitable or public purposes of this corporation.

ARTICLE 7 COMMITTEES

SECTION 7.1 EXECUTIVE COMMITTEE

The Board of Directors may, by a majority vote of Directors, designate two (2) or more of its members (who may also be serving as Officers of this corporation) to constitute an Executive Committee and delegate to such Committee any of the powers and authority of the Board in the management of the business and affairs of the corporation, except with respect to:

- (a) The approval of any action which, under law or the provisions of these Bylaws, requires the approval of the members or of a majority of all of the members.
- (b) The filling of vacancies on the Board or on any committee which has the authority of the Board.
- (c) The fixing of compensation of the Directors for serving on the Board or on any committee.
- (d) The amendment or repeal of Bylaws or the adoption of new Bylaws.
- (e) The amendment or repeal or any resolution of the Board which by its express terms is not so amendable or repealable.
- (f) The appointment of committees of the Board or the members thereof.
- (g) The expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected.
- (h) The approval of any transaction to which this corporation is a party and in which one or more of the directors has a material financial interest, except as expressly provided in Section 5233(d)(3) of the California Nonprofit Public Benefit Corporation Law.

By a majority vote of its members then in office, the Board may at any time revoke or modify any or all of the authority so delegated, increase or decrease but not below two (2) the number of its members, and fill vacancies therein from the members of the Board. The Committee shall keep regular minutes of its proceedings, cause them to be filed with the corporate records, and report the same to the Board from time to time as the Board may require.

SECTION 7.2 OTHER COMMITTEES

The corporation shall have such other committees as may from time to time be designated by resolution of the Board of Directors. Such other committees may consist of persons who are not also members of the Board. These additional committees shall act in an advisory capacity only to the Board and shall be clearly titled as “advisory” committees.

SECTION 7.3 MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be fixed by resolution of the board of Directors or by the

committee. The time for special meetings of committees may also be fixed by the Board of Directors. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are not inconsistent with the provisions of these Bylaws.

ARTICLE 8 EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS

SECTION 8.1 EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any Officer or agent of the corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances. Unless so authorized, no Officer, agent, or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

SECTION 8.2 CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for the payment of money, and other evidence of indebtedness of the corporation shall be signed by the Treasurer and countersigned by the President of the corporation.

SECTION 8.3 DEPOSITS

All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 8.4 GIFTS

The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the charitable or public purposes of this corporation.

ARTICLE 9 CORPORATE RECORDS AND REPORTS

SECTION 9.1 MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep at its principal office in the State of California:

- (a) Written minutes of all meetings of Directors and committees of the Board and, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof;

- (b) Adequate and correct books and records of account, including accounts of its properties and business transaction and accounts of its assets, liabilities, receipts, disbursements, gains and losses;
- (c) A copy of the corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the Directors of the corporation at all reasonable times during office hours.

SECTION 9.2 DIRECTORS' INSPECTION RIGHTS

Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

SECTION 9.3 RIGHT TO COPY AND MAKE EXTRACTS

Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

SECTION 9.4 ANNUAL REPORT

The Board shall cause an annual report to be furnished not later than one hundred and twenty (120) days after the close of the corporation's fiscal year to all Directors of the corporation. The report shall contain the following information in appropriate detail:

- (a) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year;
- (e) Any information required by Section 9.5 of this Article.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized Officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

SECTION 9.5 ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS

The Corporation shall prepare and mail or deliver to each Director an annual statement of the amount and circumstances of any transaction or indemnification of the following kind:

- (a) Any transaction(s) involving more than \$50,000 in which the Corporation, its parent or its subsidiary was a party, and in which any Director or Officer of the corporation,

- its parent or subsidiary (a mere common Directorship shall not be considered such an interest) had a direct or indirect financial interest.
- (b) Any indemnifications or advanced aggregating more than \$10,000 paid during the fiscal year to any Officer or director of the Corporation pursuant to Section 19 of Article 3 hereof, unless such indemnification has already been approved pursuant to Section 19 of Article 3.

ARTICLE 10 CONTRACTS AND LOANS WITH DIRECTORS AND OFFICERS

SECTION 10.1 CONTRACTS WITH DIRECTORS AND OFFICERS

No Director or Officer of this Corporation, nor any other corporation, firm, association, or other entity in which one or more of this Corporation's Directors or Officers are Directors or have a material financial interest, shall be interested, directly or indirectly, in any contract or other transaction with this corporation, unless (a) the material facts regarding such Director's or Officer's financial interest in such contract or transaction and/or regarding such common Directorship, Officership, or financial interest are fully disclosed in good faith and are noted in the minutes, or are known to all members of the Board prior to consideration by the Board of such contract or transaction; (b) such contract or transaction is authorized in good faith by a majority of the Board by a vote sufficient for that purpose without counting the vote or votes of such interested Director(s); (c) prior to authorizing or approving the transaction, the Board considers and in good faith determines after reasonable investigation under the circumstances that the Corporation could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and (d) this Corporation enters into the transaction for its own benefit, and the transaction is fair and reasonable to this Corporation at the time the transaction is entered into.

The provisions of this Section do not apply to a transaction which is part of an educational or charitable program of the Corporation if it: (a) is approved or authorized by the Corporation in good faith and without unjustified favoritism; and (b) results in a benefit to one or more Directors or Officers or their families because they are in the class of persons intended to be benefited by the educational or charitable program of this Corporation.

SECTION 10.2 LOANS TO DIRECTORS AND OFFICERS

The Corporation shall not make any loan of money or property to or guarantee the obligation of any Director or Officer, unless approved by the Attorney General of the State of California; provided, however, that the Corporation may advance money to a Director or Officer of the Corporation for expenses reasonably anticipated to be incurred in the performance of the duties of such Director or Officer, provided that in the absence of such advance such Director or Officer would be entitled to be reimbursed for such expenses by the Corporation.

ARTICLE 11 FISCAL YEAR

SECTION 11.1 FISCAL YEAR OF THE CORPORATION

The fiscal year of the corporation shall begin on the first of January and end on the thirty-first of December in each year.

ARTICLE 12 AMENDMENTS

Bylaws may be adopted, amended, or repealed by a majority vote of the entire Board of directors.

ARTICLE 13 MEMBERS

This Corporation shall have no members within the meaning of the California Nonprofit Mutual Benefit Corporation Law. The Board of Directors may, however, establish one or more classes of nonvoting members with such privileges and obligations it deems appropriate. The Corporation represents California residents and businesses as it seeks to fulfill its mission as stated in Article 3.

CERTIFICATE OF SECRETARY

I, _____ certify that I am presently the duly elected and acting Secretary of Sustainable Conservation, a California nonprofit public benefit corporation, and that the above Bylaws, consisting of ____ pages, are the Bylaws of this corporation as adopted by the Board of Directors, at a duly called meeting, on _____, 2007

DATED: _____

_____, Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Notice of Intent to Claim Compensation of Sustainable Conservation** in the matter of R.06-04-009 on all known parties to the proceeding by e-mailing a copy to each party named in the official service list.

Executed on October 31, 2007, at Oakland, California.

A handwritten signature in blue ink, appearing to read "Jody S. London", is positioned above a horizontal line.

Jody S. London
P.O. Box 3629
Oakland, California 94609

VERIFICATION

I am the representative for the applicant herein; said applicant is absent from the County of Alameda, California, where I have my office, and I make this verification for said applicant for that reason; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 31, 2007, at Oakland, California.

A handwritten signature in blue ink, appearing to read "Jody London", is written over a light blue rectangular background.

Jody London
FOR Sustainable Conservation

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

Proceeding: R0604009 - CPUC - PG&E, SDG&E,
Filer: CPUC - PG&E, SDG&E, SOCALGAS, EDISON

List Name: LIST

Last changed: October 29, 2007

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keith.mccrea@sablauw.com	daking@sempra.com	alho@pge.com
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lisa.decker@constellation.com	liddell@energyattorney.com	beth@beth411.com
cswoolums@midamerican.com	marcie.milner@shell.com	kerry.hattevik@mirant.com
kevin.boudreaux@calpine.com	rwinthrop@pilotpowergroup.com	kowalewskia@calpine.com
trdill@westernhubs.com	tdarton@pilotpowergroup.com	wbooth@booth-law.com
ej_wright@oxy.com	lschavrien@semprautilities.com	hoerner@redefiningprogress.org
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